



General Assembly

**Substitute Bill No. 63**

February Session, 2010

\* \_\_\_\_SB00063APP\_\_042610\_\_ \*

**AN ACT MANDATING EMPLOYERS PROVIDE PAID SICK LEAVE TO EMPLOYEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective January 1, 2011*) As used in this section  
2       and sections 2 to 5, inclusive, of this act:

3       (1) "Child" means a biological, adopted or foster child, stepchild or  
4       legal ward of an employee;

5       (2) "Day or temporary worker" means an individual who performs  
6       work for another on (A) a per diem basis, or (B) an occasional or  
7       irregular basis for only the time required to complete such work,  
8       whether such individual is paid by the person for whom such work is  
9       performed or by an employment agency or temporary help service, as  
10      defined in section 31-129 of the general statutes;

11      (3) "Employee" means any person, engaged in service to an  
12      employer in the business of the employer, who has worked a  
13      minimum of five hundred twenty hours for an employer within the  
14      past twelve months and is (A) paid on an hourly basis, or (B) not  
15      exempt from the minimum wage and overtime compensation  
16      requirements of the Fair Labor Standards Act of 1938 and the  
17      regulations promulgated thereunder, as amended from time to time.  
18      Employee does not include (i) day or temporary workers, and (ii)

19 employees of any constituent unit of the state system of higher  
20 education, as defined in section 10a-1 of the general statutes, who are  
21 part-time or adjunct faculty members, university assistants working  
22 less than twenty hours per week, educational assistants or other part-  
23 time professional employees;

24 (4) "Employer" means any person, firm, business, educational  
25 institution, nonprofit agency, corporation, limited liability company or  
26 other entity that employs fifty or more persons in the state;

27 (5) "Family violence" has the same meaning as provided in section  
28 46b-38a of the general statutes;

29 (6) "Retaliatory personnel action" means any termination,  
30 suspension, constructive discharge, demotion, unfavorable  
31 reassignment, refusal to promote, disciplinary action or other adverse  
32 employment action taken by an employer against an employee; and

33 (7) "Sexual assault" means any act that constitutes a violation of  
34 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a of  
35 the general statutes.

36 Sec. 2. (NEW) (*Effective January 1, 2011*) (a) Each employer shall  
37 provide paid sick leave annually to each of such employer's employees  
38 in the state. Such paid sick leave shall accrue (1) beginning January 1,  
39 2011, or for an employee hired after said date, beginning on the  
40 employee's date of employment, (2) at a rate of one hour of paid sick  
41 leave for each forty hours worked by an employee, and (3) in one-hour  
42 increments up to a maximum of forty hours per calendar year. Each  
43 employee shall be entitled to carry over up to forty unused accrued  
44 hours of paid sick leave from the current calendar year to the following  
45 calendar year, but no employee shall be entitled to use more than the  
46 maximum number of accrued hours, as described in subdivision (3) of  
47 this subsection, in any year.

48 (b) An employee shall be entitled to the use of accrued paid sick  
49 leave upon the completion of the employee's five-hundred-twentieth

50 hour of employment from January 1, 2011, if the employee was hired  
51 prior to January 1, 2011, or, if hired after January 1, 2011, upon the  
52 completion of the employee's five-hundred-twentieth hour of  
53 employment from the date of hire, unless the employer agrees to an  
54 earlier date.

55 (c) An employer shall be deemed to be in compliance with this  
56 section if the employer offers any other paid leave or combination of  
57 other paid leave that (1) may be used for the purposes of section 3 of  
58 this act, and (2) is accrued in total at a rate equal to or greater than the  
59 rate described in subsections (a) and (b) of this section. For the  
60 purposes of this subsection, "other paid leave" may include, but is not  
61 limited to, flextime, compensatory time, paid vacation, personal days  
62 or paid time off.

63 (d) Each employer shall pay each employee for paid sick leave at a  
64 pay rate equal to the greater of either (1) the normal hourly wage for  
65 that employee, or (2) the minimum fair wage rate under section 31-58  
66 of the general statutes in effect for the pay period during which the  
67 employee used paid sick leave.

68 (e) Nothing in sections 1 to 5, inclusive, of this act shall be construed  
69 to (1) prevent employers from providing more paid sick leave than is  
70 required under this section, (2) diminish any rights provided to any  
71 employee under a collective bargaining agreement, or (3) preempt or  
72 override the terms of any collective bargaining agreement effective  
73 prior to January 1, 2011, while such agreement remains in effect.

74 (f) Nothing in sections 1 to 5, inclusive, of this act shall be construed  
75 to prohibit (1) an employer from establishing a policy whereby an  
76 employee may donate unused accrued paid sick leave to another  
77 employee, and (2) an employer who provides more paid sick leave  
78 than is required under this section for the purposes described in  
79 subdivision (1) of subsection (a) of section 3 of this act, from limiting  
80 the amount of such leave an employee may use for other purposes.

81 (g) Notwithstanding the provisions of sections 1 to 5, inclusive, of  
82 this act and upon the mutual consent of the employee and employer,  
83 an employee that chooses to work additional hours or shifts during the  
84 same or following pay period, in lieu of hours or shifts missed, shall  
85 not use paid sick leave, provided the employer does not require the  
86 employee to work such additional hours or shifts.

87 Sec. 3. (NEW) (*Effective January 1, 2011*) (a) An employer shall permit  
88 an employee to use the paid sick leave accrued pursuant to section 2 of  
89 this act:

90 (1) For (A) an employee's illness, injury or health condition, (B) the  
91 medical diagnosis, care or treatment of an employee's mental or  
92 physical illness, injury or health condition, or (C) preventative medical  
93 care for an employee;

94 (2) For (A) a child's illness, injury or health condition, (B) the  
95 medical diagnosis, care or treatment of a child's mental or physical  
96 illness, injury or health condition, or (C) preventative medical care for  
97 a child;

98 (3) Where an employee is a victim of family violence or sexual  
99 assault (A) for medical care or psychological or other counseling for  
100 physical or psychological injury or disability, (B) to obtain services  
101 from a victim services organization, (C) to relocate due to such family  
102 violence or sexual assault, or (D) to participate in any civil or criminal  
103 proceedings related to, or resulting from, such family violence or  
104 sexual assault.

105 (b) If an employee's need to use paid sick leave is foreseeable, an  
106 employer may require advance notice, not to exceed seven days prior  
107 to the date such leave is to begin, of the intention to use such leave. If  
108 an employee's need for such leave is not foreseeable, an employer may  
109 require an employee to give notice of such intention as soon as  
110 practicable. For paid sick leave of three or more consecutive days, an  
111 employer may require reasonable documentation that such leave is

112 being taken for the purpose permitted under subsection (a) of this  
113 section. If such leave is permitted under subdivision (1) or (2) of  
114 subsection (a) of this section, documentation signed by a health care  
115 provider, who is treating the employee or the employee's child  
116 indicating the need for the number of days of such leave, shall be  
117 considered reasonable documentation. If such leave is permitted under  
118 subdivision (3) of subsection (a) of this section, a court record or  
119 documentation signed by an employee or volunteer working for a  
120 victim services organization, an attorney, a police officer or other  
121 counselor involved with the employee shall be considered reasonable  
122 documentation.

123 (c) Nothing in sections 1 to 5, inclusive, of this act shall be deemed  
124 to require any employer to provide paid sick leave for an employee's  
125 leave for any purpose other than those described in this section.

126 (d) Unless an employee policy or collective bargaining agreement  
127 provides for the payment of accrued fringe benefits upon termination,  
128 no employee shall be entitled to payment of unused accrued sick time  
129 under this section upon termination of employment.

130 Sec. 4. (NEW) (*Effective January 1, 2011*) (a) No employer shall take  
131 retaliatory personnel action or discriminate against an employee  
132 because the employee (1) requests or uses paid sick leave in  
133 accordance with sections 2 and 3 of this act, or (2) files a complaint  
134 with the Labor Commissioner alleging the employer's violation of  
135 sections 2 to 5, inclusive, of this act. The Labor Commissioner shall  
136 administer this section within available appropriations.

137 (b) Any employer who is found by the Labor Commissioner, by a  
138 preponderance of the evidence, to have violated the provisions of  
139 sections 2 to 5, inclusive, of this act shall be liable to the Labor  
140 Department for a civil penalty of six hundred dollars for each  
141 violation. The Labor Commissioner may award the employee all  
142 appropriate relief, including rehiring or reinstatement to the  
143 employee's previous job, payment of back wages and reestablishment

144 of employee benefits to which the employee otherwise would have  
 145 been eligible if the employee had not been subject to such retaliatory  
 146 personnel action or discriminated against. Any party aggrieved by the  
 147 decision of the commissioner may appeal the decision to the Superior  
 148 Court in accordance with the provisions of chapter 54 of the general  
 149 statutes.

150       Sec. 5. (NEW) (*Effective January 1, 2011*) Each employer subject to the  
 151 provisions of section 2 of this act shall, at the time of hiring, provide  
 152 notice to each employee (1) of the employee's entitlement to sick leave,  
 153 the amount of sick leave provided and the terms under which sick  
 154 leave may be used, (2) that retaliation by the employer against the  
 155 employee for requesting or using sick leave is prohibited, and (3) that  
 156 the employee has a right to file a complaint with the Labor  
 157 Commissioner for any violation of sections 2 to 5, inclusive, of this act.  
 158 Employers may comply with the provisions of this section by  
 159 displaying a poster in a conspicuous place, accessible to employees, at  
 160 the employer's place of business that contains the information required  
 161 by this section in both English and Spanish. The Labor Commissioner  
 162 may adopt regulations, in accordance with chapter 54 of the general  
 163 statutes, to establish additional requirements concerning the means by  
 164 which employers shall provide such notice. The Labor Commissioner  
 165 shall administer this section within available appropriations.

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| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>January 1, 2011</i> | New section |
| Sec. 2  | <i>January 1, 2011</i> | New section |
| Sec. 3  | <i>January 1, 2011</i> | New section |
| Sec. 4  | <i>January 1, 2011</i> | New section |
| Sec. 5  | <i>January 1, 2011</i> | New section |

**LAB**       *Joint Favorable Subst.*

**APP**       *Joint Favorable*